

UNITED STATES BANKRUPTCY COURT
UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee

Hearing Date: Wednesday, January 22, 2014

Place: Department B – Courtroom #12

Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

10:00 A.M.

1. [13-16062](#)-B-7 MICHAEL WEILERT, M.D.,
RHT-1 INC.
ROBERT HAWKINS/MV
RILEY WALTER/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.
MOTION TO SELL
12-20-13 [[68](#)]
2. [13-17369](#)-B-7 IRMA PARRA
IRMA PARRA/MV
SCOTT LYONS/Atty. for dbt.
MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER
FEE
12-23-13 [[19](#)]
3. [13-17180](#)-B-7 KATHLEEN STANLEY
SAS-1
OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
12-16-13 [[15](#)]

10:30 A.M.

1. [13-17600](#)-B-7 SCOTT/YESENIA SAVAGE MOTION FOR RELIEF FROM
JDM-1 AUTOMATIC STAY
MERIWEST CREDIT UNION/MV 1-6-14 [[9](#)]
BRIAN HADDIX/Atty. for dbt.
JOHN MENDONZA/Atty. for mv.
2. [13-15704](#)-B-7 ADRIANA SANCHEZ MOTION FOR RELIEF FROM
PD-1 AUTOMATIC STAY
WELLS FARGO BANK, N.A./MV 12-13-13 [[33](#)]
ALBERT GARCIA/Atty. for dbt.
GINA KIM/Atty. for mv.
DISMISSED

This matter will be dropped from calendar without a disposition. The case has already been dismissed. No appearance is necessary.

3. [13-17517](#)-B-7 AUSTIN/COURTNEY LADRIGAN MOTION FOR RELIEF FROM
JHW-1 AUTOMATIC STAY
TD AUTO FINANCE LLC/MV 12-16-13 [[14](#)]
JENNIFER WANG/Atty. for mv.

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

4. [13-17734](#)-B-7 SHARON MARTINEZ
RWR-1
PACIFIC SERVICE CREDIT
UNION/MV
PETER FEAR/Atty. for dbt.
RUSSELL REYNOLDS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-20-13 [[11](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

5. [13-17641](#)-B-7 EDWARD TAYLOR
JHW-1
TD AUTO FINANCE LLC/MV
REYNALDO PULIDO/Atty. for dbt.
JENNIFER WANG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-12-13 [[14](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

6. [13-18048](#)-B-7 PATRICK/DIANA RANGEL MOTION FOR RELIEF FROM
HTP-1 AUTOMATIC STAY
UNITED LOCAL CREDIT UNION/MV 1-8-14 [[9](#)]
JOSEPH ARNOLD/Atty. for dbt.
HANNO POWELL/Atty. for mv.
7. [09-19352](#)-B-7 TIMOTHY/ROSALYN RIVERA MOTION FOR RELIEF FROM
CJO-1 AUTOMATIC STAY
FRESNO COUNTY FEDERAL CREDIT 1-7-14 [[102](#)]
UNION/MV
PETER FEAR/Atty. for dbt.
CHRISTINA O/Atty. for mv.
8. [13-16155](#)-B-7 MICHAEL WEILERT AND MOTION FOR RELIEF FROM
CAS-1 GENEVIEVE DE MONTREMARE AUTOMATIC STAY
BRIAN GWARTZ/MV 12-21-13 [[89](#)]
RILEY WALTER/Atty. for dbt.
CHERYL SKIGIN/Atty. for mv.
CONDITIONAL NON-OPPOSITION
9. [11-10674](#)-B-7 LORRAINE MCCOOL MOTION FOR RELIEF FROM
PD-1 AUTOMATIC STAY
NATIONSTAR MORTGAGE, LLC/MV 12-16-13 [[22](#)]
THOMAS ARMSTRONG/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
DISCHARGED

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be denied as moot as to the debtor(s) because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 4001(a)(3), that relief will be granted. *Unless the court expressly orders otherwise, the proposed order shall not include any other relief.* If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

10. [13-17999](#)-B-7 AMANDA FISHER
VVF-1
AMERICAN HONDA FINANCE
CORPORATION/MV
EDDIE RUIZ/Atty. for dbt.
VINCENT FROUNJIAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-7-14 [[13](#)]

1:30 P.M.

1. [13-16703](#)-B-13 AGUSTIN AREVALO
SRH-1
BANNER INVESTMENTS, LLC./MV
STEVEN HRDLICKA/Atty. for mv. MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-3-14 [[33](#)]
2. [13-15008](#)-B-13 RICHARD/TANYA GARCIA
ASW-5
RICHARD GARCIA/MV
ADRIAN WILLIAMS/Atty. for dbt. MOTION TO CONFIRM PLAN
12-4-13 [[51](#)]
RESPONSIVE PLEADING

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules. The motion will be granted without oral argument for cause shown. The debtors shall submit a proposed confirmation order for approval to the chapter 13 trustee once the corrective documents are filed to satisfy the trustee's objection. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

3. [10-10121](#)-B-13 RODNEY/DEBRA SPENCER
PBB-2
RODNEY SPENCER/MV
PETER BUNTING/Atty. for dbt. MOTION TO MODIFY PLAN
12-12-13 [[47](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

4. [11-15738](#)-B-13 DAVID/CHARLENE STOUT
PLF-7
DAVID STOUT/MV
PETER FEAR/Atty. for dbt. MOTION TO MODIFY PLAN
12-6-13 [[105](#)]
RESPONSIVE PLEADING
5. [13-16347](#)-B-13 ALFONSO JURADO
SL-1
ALFONSO JURADO/MV
SCOTT LYONS/Atty. for dbt. MOTION TO CONFIRM PLAN
12-2-13 [[25](#)]
RESPONSIVE PLEADING

This matter will be dropped from calendar without a disposition. The case has already been dismissed. No appearance is necessary.

6. [12-18848](#)-B-13 RYAN/MELODEE BROWN
PBB-1
RYAN BROWN/MV
PETER BUNTING/Atty. for dbt.

MOTION TO MODIFY PLAN
12-13-13 [[31](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

7. [08-14462](#)-B-13 DONALD/ANGELA BROWN
SL-2
DONALD BROWN/MV
SCOTT LYONS/Atty. for dbt.

MOTION FOR ENTRY OF DISCHARGE
12-20-13 [[71](#)]

The debtors' motion for entry of a chapter 13 discharge in this reopened case was fully noticed in compliance with the Local Rules and there was no opposition. The motion shall be granted without oral argument. Based on the evidence presented, the court finds that the debtors are eligible for a chapter 13 discharge pursuant to 11 U.S.C. § 1328(a). The chapter 13 trustee's final report has already been approved and the case manager may enter the debtors' discharge pursuant to General Order 13-04(5). The court will enter a civil minute order. No appearance is necessary.

8. [13-16863](#)-B-13 LOWELL PROBST
PBB-1
LOWELL PROBST/MV
PETER BUNTING/Atty. for dbt.

MOTION TO CONFIRM PLAN
12-11-13 [[31](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

9. [13-17563](#)-B-13 LISA THAI

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-31-13 [[27](#)]

10. [13-14564](#)-B-13 ROBERT YOUNG
SL-2
ROBERT YOUNG/MV
STEPHEN LABIAK/Atty. for dbt.

MOTION TO CONFIRM PLAN
12-2-13 [[42](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

11. [12-18670](#)-B-13 ESTEBAN/GUADALUPE OROZCO
JDM-3
ESTEBAN OROZCO/MV
JAMES MILLER/Atty. for dbt.

MOTION TO MODIFY PLAN
12-5-13 [[50](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

12. [13-10674](#)-B-13 MARY JEAN ABUAN
JMA-3
MARY JEAN ABUAN/MV
JOSEPH ARNOLD/Atty. for dbt.

MOTION TO MODIFY PLAN
11-19-13 [[32](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

13. [13-17074](#)-B-13 FRANCISCO/MARIA ESPINOSA MOTION TO VALUE COLLATERAL OF
TOG-3 HSBC BENEFICIAL FINANCIAL I
FRANCISCO ESPINOSA/MV INC.
12-12-13 [[21](#)]
THOMAS GILLIS/Atty. for dbt.

The motion will be denied without prejudice. No appearance is necessary. The named respondent in the motion is HSBC Beneficial Financial I, Inc. Based on the proof of claim, the holder of this mortgage lien appears to be Beneficial Financial I, Inc.

The record does not establish that the motion was served on the proper respondent, Beneficial Financial I, Inc., in compliance with Federal Rule of Bankruptcy Procedure 7004(b)(1) (service on an individual), 7004(b)(3) (corporation, partnership or unincorporated association) or 7004(h) (FDIC Insured Depository Institution). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). Information regarding service on a corporation may be obtained from the California Secretary of State's Internet Website, see <http://kepler.sos.ca.gov/>. For a directory of FDIC Insured Institutions, see <http://www3.fdic.gov/idasp/main.asp>. Litigants are encouraged to attach a copy of their information source (web page, etc.) to the proof of service to assist the court in evaluating compliance with Rule 7004.

14. [13-16881](#)-B-13 JOHNNY/GLORIA ALEJANDREZ CONTINUED OBJECTION TO
MMW-1 CONFIRMATION OF PLAN BY MAVI
MAVI GOK LLC/MV GOK LLC
10-31-13 [[13](#)]
PETER BUNTING/Atty. for dbt.
MICHAEL WINTRINGER/Atty. for mv.

This matter will be dropped from calendar. The court has already sustained the trustee's objection to confirmation. This plan is no longer before the court. No appearance is necessary.

15. [09-16287](#)-B-13 VERNON/DEBRA MORRILL MOTION TO AUTHORIZE USE OF
PLF-2 FUNDS
VERNON MORRILL/MV 12-17-13 [[33](#)]
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

16. [11-17390](#)-B-13 MARICELA MENDOZA OBJECTION TO NOTICE OF MORTGAGE
SL-2 PAYMENT CHANGE
MARICELA MENDOZA/MV 12-11-13 [[35](#)]
STEPHEN LABIAK/Atty. for dbt.

This matter will be continued to February 27, 2014, at 1:30 p.m. The Debtor objects to an increase in her mortgage payment which can be resolved in this contested matter, but she also requests an accounting from the respondent, declaratory relief regarding the status of her account and a refund of any overpayments. That relief will require an adversary proceeding. The record does not show that the Debtor has propounded any formal discovery. This matter will be deemed a contested matter for discovery purposes and continued to track with the adversary proceeding should the debtor chose to file one. The court will prepare a minute order. No appearance is necessary.

17. [13-16590](#)-B-13 JOSE VERA
PLG-1
JOSE VERA/MV
ALLAN WILLIAMS/Atty. for dbt.

MOTION TO CONFIRM PLAN
12-9-13 [[24](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

18. [13-14395](#)-B-13 DARLA RAMBONGA
SL-2
DARLA RAMBONGA/MV
SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
12-4-13 [[57](#)]

19. [11-16697](#)-B-13 RONALD/DONNA HOFFART

CONTINUED NOTICE OF DEFAULT AND
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
AS TRANSMITTED TO BNC FOR
SERVICE.
6-13-13 [[76](#)]

ANDY WARSHAW/Atty. for dbt.
RESPONSIVE PLEADING

This matter will be continued to February 13, 2014, at 1:30 p.m, to track with the continued hearing regarding confirmation of the modified plan. The court will prepare a minute order. No appearance is necessary.

20. [11-16697](#)-B-13 RONALD/DONNA HOFFART
ACW-6
RONALD HOFFART/MV
ANDY WARSHAW/Atty. for dbt.
WITHDRAWN

MOTION TO MODIFY PLAN
11-19-13 [[120](#)]

The matter has been withdrawn. No appearance is necessary.

21. [11-16697](#)-B-13 RONALD/DONNA HOFFART MOTION TO MODIFY PLAN
ACW-7 12-10-13 [[133](#)]
RONALD HOFFART/MV
ANDY WARSHAW/Atty. for dbt.

The motion will be continued to February 13, 2014, at 1:30 p.m., for the submission of supplemental evidence. The proposed Modified Plan reduces the distribution required by the current confirmed plan for unsecured creditors. There is no evidence to establish that the modified plan satisfies all of the elements of 11 U.S.C. § 1325(a) as required by 11 U.S.C. § 1329(b) (1).

22. [14-10140](#)-A-13 CRISTY HULSEY MOTION TO EXTEND AUTOMATIC STAY
MAT-1 1-15-14 [[8](#)]
CRISTY HULSEY/MV
MARCUS TORIGIAN/Atty. for dbt.

2:00 P.M.

1. [12-10917](#)-B-13 RODNEY/SANDRA MOFFITT MOTION TO DISMISS CASE
MHM-1 12-6-13 [[58](#)]
MICHAEL MEYER/MV
PETER FEAR/Atty. for dbt.

2. [13-14188](#)-B-13 VICENTE GUERRERO AND MOTION TO DISMISS CASE FOR
MHM-1 BIBIANA LOPEZ-BUSTAMANTE UNREASONABLE DELAY THAT IS
MICHAEL MEYER/MV PREJUDICIAL TO CREDITORS AND/OR
 MOTION TO DISMISS CASE
 1-7-14 [[53](#)]

J. IRIGOYEN/Atty. for dbt.